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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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In the Matter of

Advanced Television Systems  
and Their Impact upon the  
Existing Television Broadcast Service

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Federal Communications Commission  
Office of Secretary

MM Docket 87-268

To: The Commission

**PETITION FOR RECONSIDERATION**

Nexstar Broadcasting Group, L.P., licensee of television broadcast station KQTV, Channel 2, St. Joseph, Missouri ("Nexstar"), by its attorneys, hereby requests that the Commission reconsider its decision in the Sixth Report and Order in the above-captioned rulemaking proceeding (FCC 87-268, released April 21, 1997) to exclude from those channels comprising the "core" Digital Television spectrum, channels 2-6 and channels 52-59.

As announced in the Report and Order, the Commission's scheme is to provide all existing broadcasters with an additional 6 MHZ channel for digital broadcasting from "core" spectrum -- channels 7-51. During the transition period from analog to digital broadcasting, some licensees would be provided DTV channels outside the core spectrum and would then have to move operations when core spectrum became available. The Commission has made the initial determination that analog broadcasting should cease by 2006. At this time, since broadcasters will have to return one of their channels, core spectrum would be available for those DTV stations operating outside core spectrum before 2006.

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As the Commission explained in its Sixth Further Notice of Proposed Rulemaking in this docket, at the end of the transition period, 2006, stations will be able to choose which of their two channels, NTSC or DTV, they wish to retain for DTV broadcasting. The other channel would be returned. A station with one of these two channels outside the core DTV spectrum would have no choice. It would simply retain whichever channel is within the core spectrum. Where both channels are outside the core spectrum, however, a new channel would have to be made available.<sup>1</sup>

KQTV is one of 78 television stations in the unhappy position of having both its existing NTSC channel, channel 2, and its DTV channel, channel 53 outside core spectrum. It has no way to determine what channel it might ultimately be assigned, since the pool of available channels will not even be known until other stations elect which of their two channels to retain. It is even difficult to determine when KQTV might learn of what new DTV assignment might be available, since the Commission has not determined precisely when stations will have to designate which of their two channels will be returned. Clearly, this will have to be done some time in advance of 2006. Even if the pool of stations was known, KQTV would have no basis to judge which channel might be most suitable for its DTV use (assuming it were given a choice), because the document explaining the basis of the Commission's allotment scheme, the long awaited OET Bulletin No. 69, has yet to be released.<sup>2</sup>

The consequences of having to move to another channel are not trivial. First, of course, is the cost. While (within limits) transmitters can be retuned, and transmission lines re-used, in most cases, antennas would have to be replaced. Although estimates can vary, a reasonable cost of a new antenna is

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<sup>1</sup> See *Sixth Further Notice of Proposed rule Making*, MM Docket No. 87-268, 11 FCC Rcd 10968, 10978-10979.

<sup>2</sup> Indeed, even if the Commission were to permit KQTV to retain either channel 2 or channel 53, without access to OET Bulletin No. 69 it would have to way to assess which might be the better choice. See attached letter to Perry A. Sook, President of Nexstar Broadcasting Group, L.P. from Donald G. Everist.

around \$200,000. No licensee is willing to shrug off a \$200,000 cost. And without speaking for all those similarly situated, we can assume that, as a group, the 78 licensees with no core spectrum channels will not willingly shrug off a \$15,000,000 cost. Nor should they.

Another consequence of moving to another DTV channel is the confusion that would be caused to the viewing audience. First we will be asking viewers to get used to a new channel. Then, in only four years, we would be changing the channel number. Audience loyalty is already fragmented by the multiplicity of channels offered to the public. It is often necessary to select channels by the use of complicated menu programs or by sorting through dozens of other channels, because one does not remember the number of a specific channel. Identification with a particular channel thus becomes even more important. The Commission should do everything it can to permit licensees to retain channels with which an audience identifies.

To a significant extent the Commission's selection of DTV channels has been constrained by the laws of physics. Some channels simply cannot be used in the same community. While we can all argue around the edges of what constitutes interference or what should constitute interference, certain basic rules of spectrum management still apply. The Commission's hesitance to place channels 2-6 within the core spectrum is based on the Commission's concern that digital signal propagation on these channels may be more difficult. Although we believe that the issue of whether to retain these channels should be a matter of licensee discretion, at least the Commission is raising an engineering question.

It should be noted that of the 78 stations with both NTSC and DTV channels outside the core spectrum, other decisions affecting the allocation process seem to have been based on traditional spectrum management considerations. For instance, the decision not to include channels 60-69 in the core spectrum seems to be a reflection of the concern that land mobile and public safety services have needs that can be satisfied in this spectrum. Also, it is understood that legislation earmarking channels 60-69 for other purposes is

in process. It is KQTV's position that the retention of channels 60-69 for DTV broadcasting would provide considerable flexibility to the allocation process and serve the public interest by giving some broadcasters larger service areas. Nevertheless, at least the Commission has an argument for deleting these channels from consideration.

The Commission's decision to recapture 52-59 is not based on principles of physics or spectrum management. It is an artifice. Its sole purpose is to create a block of spectrum that can be sold to the highest bidder in a perversion of the original concept of spectrum auctions. Before, the Commission auctioned spectrum because it was an economically efficient way to choose between applicants. Now all pretense has been abandoned. The Commission is allocating spectrum so that it can be auctioned. The billions of dollars greedily anticipated from an auction of broadcast spectrum dwarfs the \$15,000,000 that the industry will have to pay to move to new DTV channels by 2006. The Commission has equated the public interest with the highest bid.

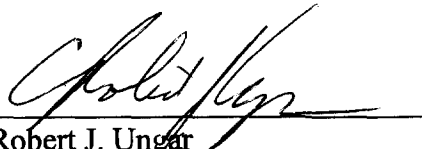
Of the 78 stations with both NTSC and DTV allocations outside the core spectrum, 56 have DTV assignments between channels 52-59. Simply by permitting these stations to retain their DTV channels, the Commission would be eliminating more than 70% of the cases where DTV channels will have to be changed.

KQTV urges the Commission to reconsider its decision to recapture significant portions of the broadcast spectrum. In particular, KQTV believes that the Commission has provided no public interest justification for the recapture of channels 52-59. Moreover, individual licensees should be permitted to determine on their own whether to retain channels 2-6. KQTV and others have been placed in the position of having to return both its NTSC and DTV channels in return for a channel as yet unidentified at a significant cost to KQTV. The public interest would be better served by continuing to use the

broadcast spectrum for broadcasting, thus providing greater flexibility to allocate DTV spectrum in the public interest.

Respectfully submitted,

By:

  
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June 13, 1997

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June 12, 1997

Mr. Perry A. Sook  
President/CEO  
Nexstar Broadcasting Group, L.P.  
415 Lackawanna Avenue  
Scranton, PA 18503

Re: KQTV(TV), St. Joseph, Missouri  
MM Docket No. 87-268

Dear Mr. Sook:

This is to report our evaluation of MM Docket 87-268 concerning KQTV(TV), St. Joseph, Missouri. KQTV(TV) operates on Channel 2 with 100 kW ERP with 247 meters height above average terrain. In the Sixth Report and Order<sup>1</sup>, KQTV(TV) has been assigned DTV Channel 53.

This firm has studied the Sixth Report and Order and has performed many studies of existing NTSC and DTV service areas using the Institute for Telecommunication Sciences<sup>2</sup> HDTV program.

Based upon these studies, we find that it is not possible to make a separate evaluation of the potential interference by DTV to:

- (1) existing NTSC service area,
- (2) potential DTV service replicated,
- (3) alternate DTV frequency assignments, and
- (4) alternate station of parameters such as an increase in power.

This technical dilemma can only be resolved by the Commission in releasing OET Bulletin 69 (see proposed Section 73.622 and 73.623 of the FCC Rules). According to Commission, it provides the

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<sup>1</sup>MM Docket No. 87-268, In the Matter of Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service, adopted April 3, 1997.

<sup>2</sup>The HDTV Model uses the Longley-Rice propagation methodology and evaluates grid cell size of 0.75-1.5 km with 3-second terrain data intervals between every 90 to 100 meters at 1 degree intervals.

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Mr. Perry A. Sook  
June 12, 1997  
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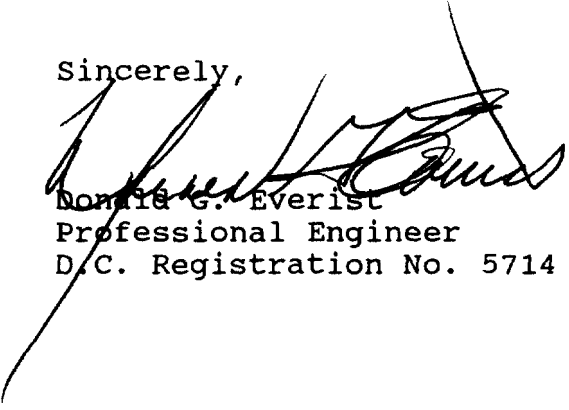
basis by which the DTV model has been developed. Further, the Commission has not yet released in detail initial technical evaluation criteria on how it proposes to process a DTV application for modified facilities whether it is for a change in site, increase in height, change in effective radiated power, etc.

Therefore, until these technical guidelines and criteria area provided by the Commission no meaningful technical evaluations can be performed.

We can perform these studies once this FCC technical information is available.

If there are any questions, please do not hesitate to contact this office.

Sincerely,



Donnie G. Everist  
Professional Engineer  
D.C. Registration No. 5714

DGE:cc  
cc: Robert Ungar